

**ZONING COMMITTEE
AGENDA
WEDNESDAY, FEBRUARY 13, 2013**

A. ADOPTION OF AGENDA

B. APPROVAL OF MINUTES

C. ORDINANCE FOR FIRST READING

13-O-0200 (1) An Ordinance by Zoning Committee to amend Various
Z-13-02 Sections of the Atlanta Zoning Ordinance for the purpose of
defining Urban Gardens and Market Gardens as permitted
use; to provide where and under what conditions such uses
shall be permitted; and for other purposes.

D. PAPERS HELD IN COMMITTEE

10-O-0013 (1) An Ordinance by Councilmember Aaron Watson **as**
Z-07-113 **substituted and amended by Zoning Committee** to rezone
from the I-1-C (Light Industrial-Conditional) District to the
MRC-3 (Mixed Residential Commercial) District, property
located at **430 and 460 Englewood Avenue, SE**, fronting
approximately 678 feet on the north side of Englewood
Avenue beginning approximately 132 feet from the northeast
corner of Mailing Avenue. **(Substituted as amended and
held 1/13/10 at the request of the District
Councilmember)**

Depth: Approximately 1,010 Feet

Area: Approximately 10.32 Acres

Land Lot: 42, 14th District, Fulton County, Georgia

Owner: JWGST LLC/Joseph Wiles

Applicant: Jason Fritz

NPU-Y

Council District 1

11-O-0533 (2) An Ordinance by Councilmember Natalyn Mosby
Z-11-12 Archibong **as substituted (#2) by Zoning Committee** to
amend Section 16-32B of the 1982 Zoning Ordinance of the
City of Atlanta by amending the existing NC-2 East Atlanta
Village Business Neighborhood Commercial District; and for
other purposes. **(Substituted and held 6/13/12)**

11-O-0692 (3) An **Amended** Ordinance by Zoning Committee granting a
U-11-16 Special Use Permit pursuant to Section 16-28.023 (2)(c)(3)
and Section 16-28.027 (3)(c) of the City of Atlanta Zoning
Ordinance for a Transfer of Excess Development Rights.
Said use is granted to Atlanta BeltLine, Inc. (Recipient

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D. PAPERS HELD IN COMMITTEE (CONT'D)

Parcel) its successors, assigns and all subsequent owners and are to be transferred from the **544 North Angier Avenue, NE (Donor Parcel)**. **(Referred back by Full Council 7/18/11) (Amended and held 7/27/11)**

11-O-0693 (4)
U-11-17 An **Amended** Ordinance by Zoning Committee granting a Special Use Permit pursuant to Section 16-28.023(2)(c)(3) and Section 16-28.027 (3)(c) of the City of Atlanta Zoning Ordinance for a Transfer of Excess Development Rights. Said use is granted to Atlanta BeltLine, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from **641 (C 665) North Avenue, NE (Perlman Tract) (Donor Parcel)**. **(Referred back by Full Council 7/18/11) (Amended and held 7/27/11)**

11-O-0824 (5) An Ordinance by Zoning Committee to amend Section 6-4028 and to create Section 6-4028.1 of the Land Development Code, Part III of the Code of Ordinances, so as to change the Deferral Fee for Variance and Special Exception Applications before the Board of Zoning Adjustment to a flat fee for each instance that the Board grants an applicant's request for deferral to a subsequent public hearing on the application; and for other purposes. **(Held 6/15/11) (Public Hearing held 5/2/12)**

11-O-0857 (6)
U-11-18 An **Amended** Ordinance by Zoning Committee granting a Special Use Permit pursuant to Section 16-28.023 (2)(c)(3) and Section 16-28.027 (3)(c) of the City of Atlanta Zoning Ordinance for a Transfer of Excess Development Rights. Said use is granted to Atlanta BeltLine, Inc., (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from **690 Morgan Street, NE**, (a.k.a. 0 North Avenue Tax Parcel Identification 14-0018-0001-026-5), **(Donor Parcel)**. **(Referred back by Full Council 7/18/11) (Held 7/27/11)**

E. ADJOURNMENT

LINK TO ZRB PENDING LEGISLATION

<http://citycouncil.atlantaga.gov/2013/pendingzrb.htm>

**AN ORDINANCE
BY ZONING COMMITTEE.**

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ATLANTA ZONING ORDINANCE FOR THE PURPOSE OF DEFINING URBAN GARDENS AND MARKET GARDENS AS A PERMITTED USE; TO PROVIDE WHERE AND UNDER WHAT CONDITIONS SUCH USES SHALL BE PERMITTED; AND FOR OTHER PURPOSES.

WHEREAS, within the City there is an increased interest and demand for access to locally grown and raised food; and

WHEREAS, the Mayor's Office of Sustainability seeks to promote policies for a sustainable future growing, developing and consuming with the least possible impact on nature; and

WHEREAS, the City desires to increase access to healthy, local, and affordable foods; encourage community-building; and support local agriculture and economic development; and

WHEREAS, such goals can be accomplished by providing producers of locally grown and raised food the ability to directly reach residents without requiring that such products be sold in fixed location storefronts; and

WHEREAS, if locations where local food producers are allowed to sell directly to residents are permitted in locations that are zoned residential, close regulation of the use is necessary to prevent the sale of other types of goods that could change the character of the use into a type of commercial venture that is inappropriate for residential neighborhoods; and

WHEREAS, if such use is permitted in residential neighborhoods, its character is unlikely to have detrimental effects in zoning districts that allow other types of uses; and

WHEREAS, the City finds it to be in the public health, safety and general welfare to adopt zoning regulations governing the definition, location and operation of urban gardens and market gardens within the various zoning districts of the Atlanta Zoning Ordinance.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS,
as follows:**

SECTION 1: That Section 16-29.001 of the Atlanta Zoning Ordinance be amended by adding a new item (80) as follows:

(80) (a) *Urban Garden*: A lot, or any portion thereof, managed and maintained by a person or group of persons, for growing and harvesting, farming, community gardening, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for Beautification, education, recreation, community or personal use, consumption, off-site sale, or off-

site donation. An Urban Garden may be a principal use on lots.

1. *Scope of Provisions:* Urban Gardens must comply with all requirements set forth in the Atlanta City Code, unless otherwise expressly set forth herein.

2. *Urban Garden Structures:* Notwithstanding any provision in the Atlanta Zoning Ordinances to the contrary, hoop-houses, greenhouses, trellises, raised beds, tool sheds, and any other structure used by the Urban Garden for the purposes set forth in Section 16-29.001 (80)(a) are expressly allowed.

3. *Machinery and Equipment:* Notwithstanding any provision in the Atlanta Zoning Ordinances to the contrary, machinery and equipment used by the Urban Garden for the purposes set forth in Section 16-29.001 (80)(a) are expressly allowed. When not in use, all such machinery and equipment (with the exception of machinery and equipment that is (i) intended for ordinary household use, (ii) borrowed or rented for a period not to exceed seven (7) days, or (iii) located in an Urban Garden in I-1 Light Industrial District or I-2 Heavy Industrial District) shall be stored so as not to be visible from any public street, sidewalk, or right-of-way.

(b) *Market Garden:* A lot, or any portion thereof, managed and maintained by a person or group of persons for growing and harvesting, farming, community gardening, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for community supported agriculture or on-site sales. All products sold on-site must be grown on-site. A Market Garden may be a principal or accessory use on lots.

1. *Scope of Provisions:* Market Gardens must comply with all requirements set forth in the Atlanta City Code, unless otherwise expressly set forth herein.

2. *Market Garden Structures:* Notwithstanding any provision in the Atlanta Zoning Ordinances to the contrary, hoop-houses, greenhouses, trellises, raised beds, tool sheds, and any other structure used by the Market Garden for the purposes set forth in Section 16-29.001 (80)(b) are expressly allowed.

3. *Machinery and equipment:* Notwithstanding any provision in the Atlanta Zoning Ordinances to the contrary, machinery and equipment used by the Market Garden for the purposes set forth in Section 16-29.001 (80)(b) are expressly allowed. When not in use, all such machinery and equipment (with the exception of machinery and equipment that is (i) intended for ordinary household use, (ii) borrowed or rented for a period not to exceed seven (7) days, or (iii) located in a Market Garden in I-1 Light Industrial District or I-2 Heavy Industrial District) shall be stored so as not to be visible from any public street, sidewalk, or right-of-way.

4. *Parking Requirements:* In zoning districts where there is no minimum parking requirement, there shall be no parking required. In all other districts, the Market Garden shall provide parking during the hours of operation at a rate of a minimum of one (1) space per one-half (1/2) acre, in any one or combination of the following means:

i. *On-site parking* shall be applicable toward meeting the required parking.

ii. *Off-site parking* within 500 feet shall be applicable toward meeting the required parking.

5. *Sales Hours*: Market Garden sales hours shall be between 7 a.m. to 9 p.m. Set up of sales operations shall begin no earlier than 6 a.m. and take-down and clean-up shall end no later than 10 p.m. Community Supported Agriculture (CSA) pickups are allowed at any time during the sales hours.

6. *Fencing*: All fences shall comply with all applicable sections in the Atlanta Zoning Ordinance pertaining to the relevant zoning district in which the Market Garden is located

7. *Waste Removal*: The Market Garden shall recycle and remove waste in accordance with all applicable sections of the Atlanta City Code.

SECTION 2: That Urban Gardens and Market Gardens be permitted in various zoning districts as follows:

Subsection 2-A-i. That the principal uses and structures permitted in **R-1 zoning districts** be amended by the adoption of a new subsection (5) to 16-03.003 which reads:

(5) Urban Gardens.

Subsection 2-A-ii. That the accessory uses and structures permitted in **R-1 zoning districts** be amended by the adoption of a new subsection (9) to 16-03.004 which reads:

(9) Urban Gardens.

(10) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-B-i. That the principal uses and structures permitted in **R-2 zoning districts** be amended by the adoption of a new subsection 16-04.003(5), which reads:

(5) Urban Gardens.

Subsection 2-B-ii. That the accessory uses and structures permitted in **R-2 zoning districts** be amended by the adoption of a new subsection (9) to 16-04.004 which reads:

(9) Urban Gardens.

(10) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-C-i. That the principal uses and structures permitted in **R-2A zoning districts** be amended by the adoption of a new subsection (4) to 16-04A.003 which reads:

(4) Urban Gardens.

Subsection 2-C-ii. That the accessory uses and structures permitted in **R-2A zoning districts** be amended by the adoption of a new subsection (8) to 16-04A.004 which reads:

(8) Urban Gardens.

(9) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-D-i. That the principal uses and structures permitted in **R-2B zoning districts** be amended by the adoption of a new subsection (4) to 16-04B.003 which reads:

(4) Urban Gardens.

Subsection 2-D-ii. That the accessory uses and structures permitted in **R-2B zoning districts** be amended by the adoption of a new subsection (8) to 16-04B.004 which reads:

(8) Urban Gardens.

(9) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-E-i. That the principal uses and structures permitted in **R-3 zoning districts** be amended by the adoption of a new subsection (5) to 16-05.003 which reads:

(5) Urban Gardens.

Subsection 2-E-ii. That the accessory uses and structures permitted in **R-3 zoning districts** be amended by the adoption of a new subsection (9) to 16-05.004 which reads:

(9) Urban Gardens.

(10) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-F-i. That the principal uses and structures permitted in **R-3A zoning districts** be amended by the adoption of a new subsection (4) to 16-05A.003 which reads:

(4) Urban Gardens.

Subsection 2-F-ii. That the accessory uses and structures permitted in **R-3A zoning districts** be amended by the adoption of a new subsection (8) to 16-05A.004 which reads:

(8) Urban Gardens.

(9) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-G-i. That the principal uses and structures permitted in **R-4 zoning districts** be amended by the adoption of a new subsection (5) to 16-06.003 which reads:

(5) Urban Gardens.

Subsection 2-G-ii. That the accessory uses and structures permitted in **R-4 zoning districts** be amended by the adoption of a new subsection (9) to 16-06.004 which reads:

(9) Urban Gardens.

(10) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-H-i. That the principal uses and structures permitted in **R-4A zoning districts** be amended by the adoption of a new subsection (4) to 16-06A.003 which reads:

(4) Urban Gardens.

Subsection 2-H-ii. That the accessory uses and structures permitted in **R-4A zoning districts** be amended by the adoption of a new subsection (8) to 16-06A.004 which reads:

(8) Urban Gardens.

(9) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-I-i. That the principal uses and structures permitted in **R-4B zoning districts** be amended by the adoption of a new subsection (4) to 16-06B.003 which reads:

(4) Urban Gardens.

Subsection 2-I-ii. That the accessory uses and structures permitted in **R-4B zoning districts** be amended by the adoption of a new subsection (7) to 16-06B.004 which reads:

(7) Urban Gardens.

(8) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-J-i. That the principal uses and structures permitted in **R-5 zoning districts** be amended by the adoption of a new subsection (5) to 16-07.003 which reads:

(5) Urban Gardens.

Subsection 2-J-ii. That the accessory uses and structures permitted in **R-5 zoning districts** be amended by the adoption of a new subsection (9) to 16-07.004 which reads:

(9) Urban Gardens.

(10) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-K-i. That the principal uses and structures permitted in **R-G zoning districts** be amended by the adoption of a new subsection (10) to 16-08.003 which reads:

(10) Urban Gardens.

Subsection 2-K-ii. That the accessory uses and structures permitted in **R-G zoning districts** be amended by the adoption of a new subsection (8) to 16-08.004 which reads:

(8) Urban Gardens.

(9) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-L. That the principal uses and structures permitted in **R-LC zoning districts** be amended by the adoption of new subsections (14) and (15) to 16-09.003 which read:

(14) Urban Gardens.

(15) Market Gardens.

Subsection 2-M. That the principal uses and structures permitted in **O-I zoning districts** be amended by the adoption of new subsections (18) and (19) to 16-10.003 which read:

(18) Urban Gardens.

(19) Market Gardens.

The first sentence of the second paragraph of section 16-10.003 be amended to read: "Except for off-street parking, *Market Gardens*, and other authorized outdoor uses, all commercial, sales and service activities shall be within completely enclosed buildings, and there shall be no unenclosed displays of merchandise."

Subsection 2-N. That the principal uses and structures permitted in **C-1 zoning districts** be amended by the adoption of new subsections (30) and (31) to 16-11.003 which read:

(30) Urban Gardens.

(31) Market Gardens.

The first sentence of the second paragraph of section 16-11.003 be amended to read: "Except for off-street parking, automobile sales lots, *Market Gardens*, and necessary activities at commercial greenhouses and service stations, or as authorized by special permit, all commercial sales and service activities shall be conducted within completely enclosed buildings, and there shall be no unenclosed displays of merchandise."

Subsection 2-O That the principal uses and structures permitted in **C-2 zoning districts** be amended by the adoption of new subsections (36) and (37) to 16-12.003 which read:

(36) Urban Gardens.

(37) Market Gardens.

Subsection 2-P That the principal uses and structures permitted in **C-3 zoning districts** be amended

by the adoption of new subsections (36) and (37) to 16-13.003 which read:

(36) Urban Gardens.

(37) Market Gardens.

Subsection 2-Q That the principal uses and structures permitted in **C-4 zoning districts** be amended by the adoption of new subsections (36) and (37) to 16-14.003 which read:

(36) Urban Gardens.

(37) Market Gardens.

Subsection 2-R That the principal uses and structures permitted in **C-5 zoning districts** be amended by the adoption of new subsections (38) and (39) to 16-15.003 which read:

(38) Urban Gardens.

(39) Market Gardens.

Subsection 2-S That the principal uses and structures permitted in **I-1 zoning districts** be amended by the adoption of new subsections (25) and (26) to 16-16.003 which read:

(25) Urban Gardens.

(26) Market Gardens.

Subsection 2-T That the principle uses and structures permitted in **I-2 zoning districts** be amended by the adoption of new subsections (24) and (25) to 16-17.003 which read:

(24) Urban Gardens.

(25) Market Gardens.

Subsection 2-U. That the **SPI-1 Downtown zoning districts** regulations be amended by the adoption of new entries in the “Other” portion of the table which follows section 16-18A.006 to provide that Urban Gardens are a permitted use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, 4, 5, 6, and 7. An additional table entry will provide that Market Gardens are a permitted use, as indicated by a “P” for Market Gardens in Subareas 1, 2, 3, 4, 5, 6, and 7.

Subsection 2-V-i. That the principal uses and structures permitted in **SPI-5 Inman Park** be amended by the adoption of a new subsection (4) to 16-18E.007 which reads:

(4) Urban Gardens.

Subsection 2-V-ii. That the accessory uses and structures permitted in **SPI-5 Inman Park** be amended by the adoption of a new subsection (8) to 16-18E.008 which reads:

(8) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples,

mosques and other religious worship facilities.

Subsection 2-W-i. That the uses permitted in **SPI-6 Poncey-Highland (Subarea 1) zoning districts** be amended by the adoption of a new subsection (d) to 16-18F.005(1) which reads:
(d) Urban Gardens.

Subsection 2-W-ii. That the accessory uses and structures permitted in **SPI-6 Poncey-Highland (Subarea 1) zoning districts** be amended by the adoption of a new subsection (c) in section 16-18F.005(2) which reads:

(c) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-W-iii. That the uses permitted in **SPI-6 Poncey-Highland (Subarea 2) zoning districts** be amended by the adoption of a new subsection (e) to 16-18F.006(1) which reads:
(e) Urban Gardens.

Subsection 2-W-iv. That the accessory uses and structures permitted in **SPI-6 Poncey-Highland (Subarea 2) zoning districts** be amended by the adoption of a new subsection (c) to 16-18F.006(2) which reads:

(c) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-W-v. That the uses permitted in **SPI-6 Poncey-Highland (Subarea 3) zoning districts** be amended by the adoption of a new subsection (e) to 16-18F.007(1) which reads:
(e) Urban Gardens.

Subsection 2-W-vi. That the accessory uses and structures permitted in **SPI-6 Poncey-Highland (Subarea 3) zoning districts** be amended by the adoption of a new subsection (c) to 16-18F.007(2) which reads:

(c) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-W-vii. That the uses permitted in **SPI-6 Poncey-Highland (Subarea 4) zoning districts** be amended by the adoption of a new subsection (f) to 16-18F.008(1) which reads:
(f) Urban Gardens.

Subsection 2-W-viii. That the accessory uses and structures permitted in **SPI-6 Poncey-Highland (Subarea 4) zoning districts** be amended by the adoption of a new subsection (g) to 16-18F.008(2) which reads:

(g) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-X-i. That the principal uses and structures permitted in **SPI-7 Candler Park (Subareas 2 and 3) zoning districts** in 16-18G.007 be amended to read:

(1) *Subarea 2:* A building or premise shall be used only for a single-family detached dwelling *or an Urban Garden*. In no case shall there be more than one main building and one main use on a lot.

(2) *Subarea 3:* A building or premise shall be used for two-family, multi-family attached dwellings, supportive housing, *or an Urban Garden*.

Subsection 2-X-ii. That subsection (a) of the accessory and structures permitted in **SPI-7 Candler Park (Subareas 2 and 3) zoning districts** section 16-18G.008(7) be amended to read:

(a) Except in the case of home occupation *and Market Gardens*, no accessory use shall be of a commercial nature.

Subsection 2-X-iii. That the accessory uses and structures permitted in **SPI-7 Candler Park (Subareas 2 and 3) zoning districts** be amended by the adoption of a new subsection (8) to 16-18G.008 which reads:

(8) *Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools*

Subsection 2-Y. That the **SPI-9 Buckhead Village zoning districts** be amended by the adoption of new entries in the “Recreation/Entertainment” portion of the table which follows section 16-18I.007 to provide that Urban Gardens are a permitted use, as indicated by a “P” for Urban Gardens, and a “P” for Market Gardens in Subareas 1, 2, 3, and 4.

Subsection 2-Z-i. That the **SPI-11 Vine City & Ashby Station District Regulations** be amended by the adoption of new entries in the table which follows section 16-18K.004 to provide that notwithstanding anything in this chapter to the contrary, Urban Gardens are a permitted principal use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12. Market Gardens are a permitted principal use, as indicated by a “P” for Market Gardens in Subareas 1, 2, 3, 9, 10, 11, and 12, and shall further indicate that Market Gardens are a conditional permitted accessory use indicated by a “PA¹” in Subareas 4, 5, 6, 7, and 8. The corresponding note beneath the table shall read: “¹Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities ”.

Subsection 2-Z-ii. That the **SPI-11 Vine City & Ashby Station District Regulations** be amended by the adoption of new entries in the table which follows section 16-18K.004 to provide that notwithstanding anything in this chapter to the contrary, Urban Gardens are a permitted principal use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, 4, 5, 6, 7, and 8. Market Gardens are a permitted principal use, as indicated by a “P” for Market Gardens in Subareas 1, 2, 3, and 8

Subsection 2-AA. That the **SPI-12 Buckhead/Lenox Stations zoning districts** be amended by the adoption of new entries in the table which follows section 16-18L.006 under “NON-RESIDENTIAL USES (ALL OTHER USES)” to provide that notwithstanding anything in this chapter to the contrary, Urban Gardens are a permitted principal use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, and 3. Market Gardens are a permitted principal use, as indicated by a “P” in Subarea 1, and by special use permit, as indicated by a “SUP” in Subareas 2 and 3.

Subsection 2-BB-i. That the principal uses and structures permitted in **SPI-15 Lindbergh Transit Station Area zoning districts** be amended by the adoption of a new subsection (16) to 16-18O.005 which reads:
(16) Urban Gardens.

Subsection 2-BB-ii. That the principal uses and structures permitted in **SPI-15 Lindbergh Transit**

Station Area zoning districts be amended by the adoption of a new subsection (x) to Sec. 16-18O.028(1) which reads:
(x) Market Gardens.

Subsection 2-BB-iii. That the principal uses and structures permitted in **SPI-15 Lindbergh Transit Station Area zoning districts** be amended by the adoption of a new subsection (c) to Sec. 16-18O.029(2) which reads:

(c) Market Gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.

Subsection 2-CC. That the principal uses and structures permitted in **SPI-16 Midtown zoning districts** be amended by the adoption of new subsections (21) and (22) to 16-18P.005 which read:
(21) Urban Gardens.
(22) Market Gardens .

Subsection 2-DD-i. That the principal uses and structures permitted in **SPI-17 Piedmont Avenue zoning districts** be amended by the addition of a new subsection (4) to 16-18Q.005 which reads:
(4) Urban Gardens.

Subsection 2-DD-ii. That the accessory uses and structures permitted in **SPI-17 Piedmont Avenue zoning districts** in 16-18Q.006 be amended to read:

“Accessory uses and structures permitted within this district shall include those customarily accessory and clearly incidental to permitted principal uses and structures and specifically include *Market Gardens limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities in subareas 1 and 4*, clubhouses, pools, and other recreation amenities, and parking to serve authorized residential and nonresidential uses within the district subject to the restrictions contained in section 16-18Q.021 and elsewhere in this chapter.

Subsection 2-DD-iii. That the permitted uses permitted in **SPI-17 Piedmont Avenue zoning districts** be amended by the addition of a new subsection (iv) to 16-18Q.026(1)(b) which reads:
(iv) Market Gardens,

and that section 16-18Q.026(1)(c) be amended to read:

“All commercial sales and service shall be conducted within enclosed permanent structures and there shall be no unenclosed displays of merchandise with the exception of *Market Gardens*, off-street parking and outdoor dining. Unenclosed outdoor sales or displays are permissible only by special permit as set forth below.”

Subsection 2-DD-iv. That the permitted uses permitted in **SPI-17 Piedmont Avenue zoning districts** be amended by the addition of a new subsection (v) to 16-18Q.027(1)(b) which reads:
(v) Market Gardens.

and that section 16-18Q.027(1)(d) be amended to read:

“All commercial sales and service shall be conducted within enclosed permanent structures and there shall be no unenclosed displays of merchandise with the exception of *Market Gardens*, off-street parking and outdoor dining. Unenclosed outdoor sales or displays are permissible only by

special permit as set forth below.”

Subsection 2-EE. That the permitted principal uses and structures, permitted accessory uses and structures, and special permits in **SPI-18 Mechanicsville Neighborhood zoning districts** be amended by the adoption of new entries in the table which follows 16-18R.005 to provide that notwithstanding anything in this chapter to the contrary, Urban Gardens are a permitted principal use, as indicated by a “P” for Urban Gardens, in Subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. Market Gardens are a permitted use indicated by a “P” for Market Gardens in Subareas 1, 2, 3, 7, 8, 9 and 10, and Market Gardens are an accessory use, as indicated by a “PA¹” in subareas 4, 5, and 6. The corresponding note beneath the table shall read: “¹Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.”

Subsection 2-FF. That the principal uses and structures in **SPI-20 Greenbriar zoning districts** be amended by the adoption of new entries in the “Other” portion of the table which follows 16-18T.005 to provide that Urban Gardens are a permitted use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, 4, 5, and 6. Market Gardens are a permitted use indicated by a “P” for Market Gardens in Subareas 1, 2, and 3, and as indicated by a “P¹⁷” in subareas 4, 5, and 6. The corresponding note beneath the table shall read: “¹⁷Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.”

Subsection 2-GG. That the permitted principal uses and structures, permitted accessory uses and structures, and special permits in **SPI-21 Historic West End/Adair Park zoning districts** be amended by the adoption of new entries in the “Other” portion of the table which follows 16-18U.008 to indicate that Urban Gardens are a permitted use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, that Market Gardens are a permitted use as indicated by a “P” for Market Gardens in Subareas 1, 2, 3, 4, 5, 6, 8, 9, and 10, and shall further indicate that Market Gardens are a conditional permitted use as indicated by a “P²⁶” in Subarea 7. The corresponding note beneath the table shall read: “²⁶Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.”

Subsection 2-HH. That the permitted principal uses and structures, permitted accessory uses and structures, and special permits in **SPI-22 Memorial Drive/Oakland Cemetery zoning districts** be amended by the adoption of new entries in the “Other” portion of the use table which follows Section 16-18V.005 to provide that Urban Gardens are a permitted use, as indicated by a “P” for Urban Gardens in Subareas 1, 2, 3, and 4, and Market Gardens are a permitted use, as indicated by a “P” for Market Gardens in Subareas 1, 2, 3, and 4.

Subsection 2-II. That the principal uses and structures permitted in **PD-H Planned Development zoning districts** be amended by the addition of a new subsection (5) to 16-19A.003 which reads:
(5) Urban Gardens.

Subsection 2-JJ. That the principal uses and structures permitted in **PD-MU Planned Development zoning districts** be amended by the adoption of new subsections (21), and (22) to 16-19B.003 which read:
(21) Urban Gardens.
(22) Market Gardens.

Subsection 2-KK. That the principal uses and structures permitted in **PD-OC Planned Development zoning districts** be amended by the adoption of new subsections (19) and (20) to 16-19C.003 which read:

(19) Urban Gardens.

(20) Market Gardens.

Subsection 2-LL. That the principal uses and structures permitted in **PD-BP zoning districts** be amended by the adoption of new subsections (13) and (14) to 16-19D.003 which read:

(13) Urban Gardens.

(14) Market Gardens.

Subsection 2-MM. That the principal uses and structures permitted in **PD-CS Planned Development zoning districts** be amended by the adoption of a new subsection (3), to 16-19E.003 which reads:

(3) Urban Gardens.

Subsection 2-NN-i. That the principal uses and structures permitted in **Cabbagetown Landmark (Subarea 1) zoning districts** be amended by the addition of new subsections (i), (j) and (k) to 16-20A.007(1) which read:

(i) Urban Gardens.

(j) Market Gardens .

Subsection 2-NN-ii. That the principal uses and structures permitted in **Cabbagetown Landmark (Subarea 2) zoning districts** be amended by the adoption of a new subsection (c) to 16-20A.008(1) which reads:

(c) Urban Gardens.

Subsection 2-NN-iii. That the principal uses and structures permitted in **Cabbagetown Landmark (Subarea 3) zoning districts** be amended by the adoption of a new subsection (d) to 16-20A.009(3) which reads:

(d) Urban Gardens.

Subsection 2-NN-iv. That the principal uses and structures permitted in **Cabbagetown Landmark (Subarea 4) zoning districts** be amended by the adoption of new subsections (d) and (e) to 16-20A.010(1) which read:

(d) Urban Gardens.

(e) Market Gardens.

Subsection 2-NN-v. That the principal uses and structures permitted in **Cabbagetown Landmark (Subarea 5) zoning districts** be amended by the adoption of new subsections (e) and (f) to 16-20A.011(1) which read:

(e) Urban Gardens.

(f) Market Gardens.

Subsection 2-OO-i. That the principal uses and structures permitted in **Druid Hills (Ponce de Leon Corridor) zoning districts** be amended by the adoption of a new subsection (f) to 16-20B.004(1) which reads:

(f) Urban Gardens.

Subsection 2-OO-ii. That the principal uses and structures permitted in **Druid Hills (Fairview Road Subarea) zoning districts** be amended by the adoption of a new subsection (c) to 16-20B.005(1) which reads:

(c) Urban Gardens.

Subsection 2-OO-iii. That the principal uses and structures permitted in **Druid Hills (Springdale/Oakdale/Lullwater subarea) zoning districts** be amended by the adoption of a new subsection (c) to 16-20B.006(1) which reads:

(c) Urban Gardens.

Subsection 2-PP-i. That the principal uses permitted in **Martin Luther King, Jr. (Subarea 1) Landmark zoning districts** be amended by the adoption of a new subsection (f) to 16-20C.004(1) which reads:

(f) Urban Gardens.

Subsection 2-PP-ii. That the accessory uses and structures permitted in **Martin Luther King, Jr. (Subarea 1) Landmark zoning districts** be amended by the adoption of a new subsection (c) to 16-20C.004(2) which reads:

(c) Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.

Subsection 2-PP-iii. That the principal uses permitted in **Martin Luther King, Jr. (Subarea 2) Landmark zoning districts** be amended by the adoption of a new subsection (e) to 16-20C.005(1) which reads:

(e) Urban Gardens.

Subsection 2-PP-iv. That the accessory uses and structures permitted in **Martin Luther King, Jr. (Subarea 2) Landmark zoning districts** be amended by the adoption of a new subsection (f) to 16-20C.005(2) which reads:

(f) Market Gardens are limited to parcels which are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.

Subsection 2-PP-v. That the principal uses permitted in **Martin Luther King, Jr. (Subarea 3) Landmark zoning districts** be amended by the adoption of new subsections (k) and (l) to 16-20C.006(1) which read:

(k) Urban Gardens.

(l) Market Gardens .

Subsection 2-PP-vi. That the principal uses permitted in **Martin Luther King, Jr. (Subarea 4) Landmark zoning districts** be amended by the adoption of new subsections (x) and (y) to 16-20C.007(1) which read:

(x) Urban Gardens.

(y) Market Gardens .

Subsection 2-PP-vii. That the principal uses permitted in **Martin Luther King, Jr. (Subarea 5) Landmark zoning districts** be amended by the adoption of a new subsections (w) and (x) to 16-

20C.008(1) which read:

(w) Urban Gardens.

(x) Market Gardens .

Subsection 2-PP-viii. That the Transitional Zone in **Martin Luther King, Jr. (Subarea 6) Landmark zoning districts** in 16-20C.009(1) be amended by the adoption of a new subsection (c) which reads:

(c) Notwithstanding anything to the contrary in the Atlanta Zoning Ordinance, Urban Gardens and Market Gardens are permitted primary uses and accessory uses within the Transitional Zone (Subarea 6).

Subsection 2-QQ. That the principal uses permitted in **Baltimore Block Landmark zoning districts** be amended by the adoption of new subsections (f) and (g) to 16-20F.004(1) which read:

(f) Urban Gardens.

(g) Market Gardens .

Subsection 2-RR-i. That the principal uses and structures permitted in **Castleberry Hill (Subarea 1) zoning districts** be amended by the adoption of new subsections (i) and (j) to 16-20N.007(2) which read:

(i) Urban Gardens.

(j) Market Gardens .

Subsection 2-RR-ii. That the principal uses and structures permitted in **Castleberry Hill (Subarea 2) zoning districts** be amended by the adoption of new subsections (p) and (q) to 16-20N.008 (10) which read:

(p) Urban Gardens.

(q) Market Gardens.

Subsection 2-SS. That the principal uses and structures permitted in **NC Neighborhood Commercial zoning districts** be amended by the adoption of new subsections (10) and (11) to 16-32.005 which read:

(10) Urban Gardens.

(11) Market Gardens.

Subsection 2-TT. That the principal uses and structures permitted in **LW zoning districts** be amended by the adoption of a new subsection (e) to 16-33.004(1) which reads:

(e) Urban Gardens.

and a new subsection (w) to 16-33.004(2) which reads:

(w) Market Gardens .

Subsection 2-UU. That the principal uses and structures permitted in **MRC zoning districts** be amended by the adoption of new subsections (31) and (32) to 16-34.005 which read:

(31) Urban Gardens.

(32) Market Gardens.

Subsection 2-VV-i. That the principal uses and structures permitted in **MR zoning districts** be amended by the adoption of new subsection (7) to 16-35.005 which reads:

(7) Urban Gardens.

The first sentence of the third paragraph of section 16-35.005 be amended to read: "All commercial sales and service shall be conducted within enclosed permanent structures and there shall be no unenclosed displays of merchandise with the exception of *Market Gardens*, off-street parking and outdoor dining. Outdoor sales or displays are permissible only by special permit as set forth below.

Subsection 2-VV-ii. That the first paragraph of section 16-35.006 be amended to read:

"Market Gardens shall be allowed as an accessory use, but limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities. All other accessory uses and structures permitted within this district shall include those customarily accessory and clearly incidental to permitted principal uses and structures, shall be limited to use by residents, and specifically include home occupation subject to limitations set forth in subsection 16-29.001(17), clubhouses, pools, and other recreation amenities, and parking to serve authorized residential and nonresidential uses within the district subject to the restrictions contained elsewhere in this chapter."

City Council
Atlanta, Georgia

10- C -0013

A SUBSTITUTE ORDINANCE
BY:

Z-07-113
Date Filed: 11-9-07

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **460 Englewood Avenue, S. E.**, changed from the I-1-C (Light Industrial-Conditional) District to the MR4A-C (Multi-Family Residential-Conditional) District, to wit:

ALL THAT TRACT or parcel of land lying in Land Lot 42, 14th District, Fulton County, Georgia, being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

COMMITTEE AMENDMENT FORM

DATE: 04/29/09

COMMITTEE ZONING PAGE NUM. (S)

ORDINANCE I. D. #07-O-2527 SECTION (S)

RESOLUTION I. D. #09-R- PARA.

AMENDS THE LEGISLATION BY INSERTING A NEW LEGAL DESCRIPTION.

AMENDMENT DONE BY COUNCIL STAFF 4/29/09

**LEGAL DESCRIPTION
TRACT 3**

2-07-113

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 42 of the 14th District, Fulton County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence from an iron pin found at the intersection of the easterly right-of-way line of Mailing Avenue (60' R/W) with the northerly right-of-way line of Englewood Avenue (60' R/W); thence along said right-of-way line of Englewood Avenue South 89 degrees 03 minutes 56 seconds East a distance of 131.96 feet to an iron pin found; thence South 88 degrees 55 minutes 26 seconds East a distance of 178.05 feet to a point; thence South 89 degrees 02 minutes 28 seconds East a distance of 200.50 feet to an iron pin found (3/4" Re-Rod) and the TRUE POINT OF BEGINNING, from the TRUE POINT OF BEGINNING as thus established, thence leaving said right-of-way line North 02 degrees 39 minutes 40 seconds East a distance of 81.50 feet to a point; thence North 02 degrees 39 minutes 40 seconds East a distance of 71.10 feet; thence North 02 degrees 39 minutes 40 seconds East a distance of 277.40 feet to an iron pin set; thence North 02 degrees 39 minutes 40 seconds East a distance of 30.00 feet to a point; thence North 00 degrees 51 minutes 10 seconds East a distance of 332.00 feet to an Iron Pin Set; thence North 00 degrees 51 minutes 10 seconds East a distance of 100.00 feet to a point on the southerly right-of-way line of Atlanta West Point Railroad (Variable R/W); thence along said right-of-way North 70 degrees 03 minutes 40 seconds East a distance of 78.30 feet to a point; thence North 69 degrees 25 minutes 10 seconds East a distance of 243.50 feet to a point; thence leaving said right-of-way line South 00 degrees 51 minutes 10 seconds West a distance of 550.00 feet to an Iron Pin Set; thence South 02 degrees 39 minutes 40 seconds West a distance of 460.00 feet to an Iron Pin Set on the northerly right-of-way line of Englewood Avenue; thence along said right-of-way line North 88 degrees 54 minutes 46 seconds West a distance of 299.86 feet to an Iron Pin Found (3/4" Re-Rod) and the TRUE POINT OF BEGINNING.

Said tract containing 6.540 acres.

CONDITIONS FOR Z-07-113 for 460 Englewood Avenue, S.E.

1. Building Façade Materials and Treatments:

- a. All exterior building facades excluding interior courtyards shall be composed of a minimum of 35% masonry. For the purpose of these conditions, "masonry" is defined as "mineral-based building materials such as terracotta, mortar, stone, and brick."
- b. The following materials shall be prohibited on all building facades: exposed pressure-treated wood; vinyl siding; vinyl railing; white, cream, or off-white solid vinyl windows; and exterior insulation finished systems (EIFS). Solid vinyl windows in other colors are permitted. Cementitious siding and panels are permitted.
- c. Foundations shall be faced in masonry. Foundations may be faced in two-coat or three-coat hard stucco if carried from the façade directly above. For the purpose of this Condition, "foundation" is defined as the surface area of the building facade below the lowest finished floor level.
- d. Exterior columns shall have a minimum width of 5 ½ inches.
- e. No exterior stairs shall be constructed of wood.
- f. Stoops shall be a minimum of four feet wide.
- g. Steps that serve porches and stoops shall have closed risers and ends.

2. Balconies:

- a. 60% of all balconies facing Englewood Avenue, Boulevard Crossing Park (east side of the building) and the west and north property lines shall have a minimum depth of five feet.
- b. Railings shall consist of painted wood, ornamental metal or glass.

3. Residential Windows:

- a. 50% of the residential window units shall be operable.
- b. All windows shall include windowpanes that are recessed a minimum of two inches from the façade in which they are installed.
- c. Paired windows that are grouped together shall have center mullions that are two inches wider than the side trim.
- d. Flat, "snap-in" muntins, and muntins that are sandwiched between layers of glass are prohibited.

4. Roofs:

- a. Shall overhang by a minimum of 2 feet over the building façade; or
- b. Shall have parapet walls screening the roof from view from the adjacent streets and west and north property lines.

5. Awnings and Canopies:

- a. All awnings and canopies shall be made of cloth, canvas or metal. The shape of the upper surface of any awnings shall match the shape of the opening in front of which they would be attached.
- b. Internally lit awnings and canopies are prohibited. Any illumination that is provided in conjunction with the awning or canopy shall be directed downwards, not upwards towards the underside of the awning or canopy.

6. Floor to Ceiling Height: The first floor of all designated street-level live/work units shall have a minimum stud height of 12 feet measured floor to ceiling, and any commercial space shall have a minimum 15 feet measured floor to ceiling.

7. Maximum Building Height: In order to provide adequate air and light to the future green space located immediately to the east of this site, the building height shall not exceed 60 feet within 45 feet of the eastern property line.

8. Trail Easement: The property owner has voluntarily agreed to convey an easement to the City of Atlanta encompassing the northwest corner of the property. The area of the easement will be consistent with the area illustrated on the attached map entitled "Exhibit Map 1 (4/6/2009)." Within this area, the City will have the right to design, build, and maintain for public use a multi-use trail that measures up to 16' in width, with landscaped areas on both sides. The easement shall be conveyed to the City of Atlanta prior to the issuance of a BeltLine SAP. The area may be counted toward UOSR or public space requirements.

9. Connection to Park: Development shall provide pedestrian connection, as proposed by the owner, to the "Future Park Road" to the east of the property in the location indicated on the site plan dated 10/27/07 and stamped received by the Bureau of Planning on 4/21/08. .

Development shall provide a fully publicly accessible pedestrian way between the "new street" described below and the park to the east. Any buildings to the north or south of the pedestrian way will have a minimum building separation of 30 feet as measured north-south. Pedestrian way and area of building separation will be located in the approximate area indicated on "Exhibit Map 1 (4/6/2009)."

10. New Street: Development access shall be provided from a publicly accessible street built consistent with the street standards outlined in the Section 16-35 and the adopted BeltLine Street Framework Plan where the "private drive" is indicated on the site plan dated 10/27/07 and stamped received by the Bureau of Planning on 4/21/08. Any development will conform to the standards for public street frontage and improvements along the new publicly accessible street. Upon the occurrence of the first of the following:

- (1) An issuance of a Special Administrative Permit (SAP) for one of the adjacent parcels located at 430 Englewood Avenue or 1160 Mailing Avenue or;
- (2) The rezoning for one of the adjacent parcels located at 430 Englewood Avenue or 1160 Mailing Avenue,

the applicant shall provide a fully publicly accessible 24-foot wide street connection to the "Future Connection" as indicated on the site plan dated 10/27/07 and stamped received by the Bureau of Planning on 4/21/08. The actual location of the Future Connection to Mailing Avenue may vary slightly in response to future submitted site plans.

11. Relationship of Building to the Street: Development frontage along Englewood and the "New Street" described above shall conform to the standards for frontage along a Collector as described in section 16-35.014.
12. Any application for a Special Administrative Permit and any other request for an administrative variance to the zoning regulations submitted to the City of Altnat shall be submitted to NPU Y at the same time it is submitted to the City of Atlanta.

City Council
Atlanta, Georgia

07-0-2527

AN ORDINANCE
BY: ZONING COMMITTEE

Z-07-113
Date Filed: 11-9-07

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **430 and 460 Englewood Avenue, S. E.**, changed from the I-1-C (Light Industrial-Conditional) District to the MRC-3 (Mixed Residential Commercial) District, to wit:

ALL THAT TRACT or parcel of land lying in Land Lot 42, 14th District, Fulton County, Georgia, being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

11-O-0533
Z-11-12

AN ORDINANCE

BY COUNCILMEMBER NATALYN MOSBY ARCHIBONG

AS SUBSTITUTED (#2) BY ZONING COMMITTEE

**AN ORDINANCE TO AMEND SECTION 16-32B OF THE
1982 ZONING ORDINANCE OF THE CITY OF ATLANTA
BY AMENDING THE EXISTING NC-2 EAST ATLANTA
VILLAGE BUSINESS NEIGHBORHOOD COMMERCIAL
DISTRICT.**

WHEREAS, the NC-2 East Atlanta Village Neighborhood Commercial District was created by Ordinance No. Z-01-55 encompassing the area indicated on "Attachment A"; and

WHEREAS, the NC-2 East Atlanta Village Neighborhood is interested in creating a vibrant commercial district that is supportive of a quality of life that is conducive to attracting and keeping thriving entrepreneurs in the neighborhood; and

WHEREAS, the inclusion of the proposed language will not only have a positive impact on the East Atlanta Village Neighborhood, but on all of the citizens in southeast Atlanta

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA,
GEORGIA HEREBY ORDAINS:**

SECTION 1: That the Chapter 32B. NC-2 East Atlanta Village Neighborhood Commercial District of the 1982 Zoning Ordinance of the City of Atlanta is hereby amended by inserting the following language in Chapter 32B and shall read as follows:

Sec. 16-32B.001. - Scope of provisions.

The regulations set forth in this chapter are the specific regulations for the NC-2 East Atlanta Village Neighborhood Commercial District. These regulations set forth herein shall apply in this district in addition to the general Neighborhood Commercial (NC) regulations or shall apply in lieu of the general NC regulations where these regulations differ.

Sec. 16-32B.002. - Specific Regulations.

The following regulations are specific to the NC-2 East Atlanta Village Neighborhood Commercial District:

Sec. 16-32B.003 - Permitted Principal Uses and Structure

1. The following uses are limited to the number of establishment as indicated:
 - a) Two (2) Gasoline and diesel service stations.
 - b) Three (3) Body Art Studios.
 - c) No Beauty Shops, Barber Shops, Beauty Schools, Hair Salons, Nail Salons, Manicure shop within X feet of another similar personal service establishments
 - d) No chain-link fencing, barbed wire or razor wire is allowed. New chain-link fencing may not be installed to repair existing chain-link fencing.
2. The following uses are expressly prohibited in this District:
 - a) Adult entertainment businesses, Pawnshops, including title pawn, and similar establishments.

Sec. 16-32B.004. - Special Permits.

The following uses are permissible only by special permits in addition to the uses identified in Code Section 16-32B.007

- i. All eating and drinking establishments that are licensed to sell alcohol for on-the-premises consumption, unless the establishment prohibits smoking. Permits shall be limited to three (3) years for such establishments.
- b. *Duration, Expiration, and Renewal of Special Use Permits.*
 - i. All Special Use Permits are valid for five (5) years unless otherwise specified herein. All Special Use Permits will be automatically renewed for an additional five (5) year period unless a complaint is made to the Director of Bureau of Planning or designee.
 - ii. Director of the Office of Planning or designee will notify appropriate Atlanta City Council Member and the appropriate Neighborhood Planning Unit (NPU) chair of any complaint via electronic mail AND by United States Postal Service first class mail at the time the complaint is made.
 - iii. Complaint must be in writing and state with specificity the factual basis for the Complaint. The Director of the Office of Planning must review all complaints within ten (10) days of filing and make a determination as to whether the complaint is frivolous.
 - iv. If the Complaint is found to be frivolous, the Director of the Office of Planning shall dismiss the Complaint. The Complaining party will be notified

in writing of the dismissal and shall also be notified of their ability to appeal the dismissal to the Board of Zoning Adjustment.

- v. If a Complaint is made and not found to be frivolous or the Board of Zoning Adjustments finds the dismissal of a complaint improper and reinstates the complaint, then the Permit in question shall expire at the end of its duration and a new application must be submitted in order for the use to continue.
2. *Special Administrative Permits (SAP)*. Outdoor amusement enterprises, exhibits, entertainment, music venues, meetings, displays or sales areas, or outdoor areas for religious ceremonies of less than ninety (90) days duration.
 - a. Outdoor vending, which shall include private property vending and all forms of commerce from non-permanent structures, including Farmer's Markets, is permitted through issuance of a Special Administrative Permit under the following limitations:
 - i. Application for a SAP shall include a Vehicular & Pedestrian Traffic Plan and a Vehicular Parking Plan that must be approved by the Special Operations Section of the Atlanta Police Department, or its successor entity.
 1. Plan must be to scale.
 2. Plan must demonstrate adequate parking based on the overall number of vendors.
 3. Plan must demonstrate pedestrian ingress and egress to vending location.
 4. No more than 25% of parking spaces of lot currently being used by a business are permissible unless other arrangements for that business's parking needs have been made in writing and are submitted with the application.
 - ii. Vending is not allowed on Moreland Avenue or at any location that shares a side yard with Moreland Avenue.
 - iii. SAP shall specify days for which vending is permissible.
 1. Maximum of two (2) days of vending per property per week.
 2. Maximum of two (2) days per vendor per week in this district.
 3. Maximum of eight (8) hours per day per property.
 - iv. Operational Requirements:
 1. Informational Requirements
 - a. Business license displayed.
 - b. Special Administrative Vending Permit displayed.
 - c. Signage shall be limited to a single sign no smaller than 2' x 3' with letters no smaller than 5" tall. Sign must display name of Business and Owner, with address, and contact information and name of the stand or items sold and listing of items sold and price.
 2. Vendor required to have a white 10' x 10' tent, or equivalent structure (i.e. large umbrella), with no more than one side closed.

3. All goods stored within tent or equivalent structure.
 4. No other advertisements in or on tent and no signage/writing on tent.
 5. Vendor shall Keep area trash free within 15' of tent
 6. All waste disposed of using privately owned containers, not in city receptacles and each vendor has their trashcan.
 7. No amplified music, voice, or other sounds, and no lighting.
- b. Notification of filing of SAP.
- i. *NPU notification of Application.* In addition to the required SAP submittal, the applicant shall also provide to the Director of the Office of Planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification.
 - ii. *NPU Response to Application.* Said NPU shall have a period of twenty-one (21) days from the date of the said certificate of mailing to provide one set of written comments to the bureau of planning prior to any SAP approval.
 - iii. *NPU Notification of City of Atlanta Response to Application.* Director of the Office of Planning or designee will notify appropriate Neighborhood Planning Unit (NPU) chair or their designee of decision regarding SAP via electronic mail AND by United States Postal Service first class mail at the same time as the applicant is notified of the decision.
- c. *City Response Time.* From the date of completion of the submission of an SAP application for a building permit, the City shall have sixty (60) days to respond to the application.

3. *Special exceptions.*

- a. Off-street required parking lots between 200 to 500 feet of primary use and within the same zoning district. An applicant shall submit written consent from property owner of the proposed off-site parking area. All parking spaces shall be clearly marked and signed as reserved during specified hours.

Transitional yards are reduced to zero between this district and any multifamily residential district.

Sec. 16-32B.005 – Exterior Lighting.

1. Exterior lighting in and around buildings and in parking lots is permitted and must be installed so as not to shine directly onto adjacent residentially zoned property.
2. Where it is determined by the Office of Planning that it is not technically feasible by design, location, shielding or other methods to completely prevent necessary lighting

from shining directly onto adjacent residential properties, provisions must be made to minimize the shining light to the extent technically feasible.

3. All exterior lighting shall have full cut off fixtures above a 90 degree angle.

Sec. 16-32B.006 – Design requirements for transitional locations and off-street parking.

1. *Parking Structures.* In addition to the requirements of Section 16-32.010, the following requirements shall apply: Above-ground parking structures and surface lots located adjacent to transitional yards shall have planted within such yards a staggered double-row of Japanese Cryptomeria (*Cryptomeria japonica*) trees, or equivalent evergreen species, spaced a maximum distance of sixteen (16) feet on-center. Said trees shall have a minimum planted height of eight (8) feet and a minimum mature height of twenty-five (25) feet.
2. *Rooftop dining.* Roof Top Dining is not permitted within fifty (50) feet of any Residential district.
3. *Telecommunications equipment and structures location.* No Telecommunications equipment and/or structure may be located within two hundred (200) feet of a single-family residential district boundary.

Sec. 16-32B.007 – Outdoor dining regulations

1. Outdoor dining may be located either within supplemental zones or by encroaching into the sidewalk clear zone. When outdoor dining encroaches into the sidewalk clear zone, the following criteria shall be met:
 - a. An unobstructed sidewalk clear zone area at least six (6) feet wide;
 - b. No permanent structure or ornamentation shall be located within the area where encroachment is permitted and no element shall be attached to the sidewalk in any way. All such structures and ornamentation shall be non-permanent and removable from the sidewalk.
 - c. At such time as the outdoor dining use is discontinued, sidewalks shall comply with all requirements of this chapter; and
 - d. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of thirty-six (36) inches including any plant material.

Sec. 16-32B.008 – Relationship of building to street (active street-level use requirements)

1. Active uses shall be required at the sidewalk-level of all buildings and structures,
 - a. All buildings shall have a defined sidewalk-level for purposes of the active-use requirement. Active uses shall be required within buildings and parking structures at sidewalk-level for the entire length of said building facade except at ingress and egress points into parking structures or loading areas. When two (2) or more floors meeting the definition of sidewalk-level exist within the same structure, this

- requirement shall only apply to the frontage of the sidewalk-level adjacent to the required sidewalk or provided supplemental zone.
- b. Sidewalk-level: any building floor within five (5) vertical feet of the adjacent required sidewalk or provided supplemental zone.
- c. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and shall not include parking, non-residential storage areas, driveways, or queuing lanes parallel to the adjacent street.
- d. Minimum active use depths shall be provided for a minimum depth of twenty (20) feet as measured from the street-facing building facade.

Sec. 16-32B.009 - Screening of Dumpsters, Bulk Storage Containers, Loading Areas, and Mechanical and Accessory Features.

1. In addition to the requirements of Section 16-32.018 :
 - a. Dumpsters, bulk storage containers, and other loading areas shall be paved with impervious materials and shall be screened so as not to be visible from any public right-of-way, park or plaza, outdoor dining area, or adjacent property. Chain link and similar fencing in combination with other screening elements shall not be allowed to satisfy said opaque wall screening requirement.
 - b. Dumpsters and bulk storage containers: shall have a self-closing gate and be limited in height to seven (7) feet above finished grade and provide opaque walls a minimum of twelve (12) inches higher than said dumpster or storage container to provide screening so as not to be visible (confusing language) from any public right-of-way, park or plaza, outdoor dining area, or adjacent property.
 - c. Building mechanical and accessory features not located on rooftops shall not be obscured by landscaping or similar screening. Said shrubbery shall consist of a continuous hedge of evergreen shrubbery, and shall be a minimum height of three (3) feet at the time of planting and reach a minimum height of six (6) feet at maturity.
 - d. Building mechanical and accessory features located on rooftops shall be at least ten (10) feet from the edge of the rooftop and shall not be visible from any public right-of-way, park or plaza, outdoor dining area, or adjacent property.
 - e. Exterior utility connections, with the exception of life safety connections, shall not to be visible from any public right-of-way, park or plaza, or outdoor dining area.

Sec. 16-32B.010 – Sign Ordinance

Refer to Section 16-28A, Sign Ordinance. All NC districts shall follow the requirements of Chapter 16-28A (the Sign Ordinance of the City of Atlanta) which are applicable to a NC (Neighborhood Commercial) zoning district. The designation of property with NC status is not intended in any way to otherwise affect the application of the City of Atlanta Sign Ordinance to any property contained in any NC district.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby waived in this instance only.

11-O-0533

**AN ORDINANCE
BY COUNCILMEMBER ARCHIBONG
AS SUBSTITUTED BY ZONING COMMITTEE**

Z-11-12

AN ORDINANCE TO AMEND CHAPTER 32B NC-2 EAST ATLANTA VILLAGE NEIGHBORHOOD COMMERCIAL DISTRICT OF THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA CODE OF ORDINANCES FOR THE PURPOSE OF ADDING SPECIFIC REGULATIONS ; AND FOR OTHER PURPOSES.

WHEREAS, the NC-2 East Atlanta Village Neighborhood Commercial District and its boundaries were created by Ordinance 01-O-1169/Z-01-55; and

WHEREAS, the NC-2 East Atlanta Village Neighborhood is interested in creating a vibrant commercial district that is supportive of a quality of life that is conducive to attracting and keeping thriving entrepreneurs in the neighborhood; and

WHEREAS, the East Atlanta Village Neighborhood is currently the only commercial district in the NC category that does not have specific zoning regulations; and

WHEREAS, some residents, business and property owners have requested the enactment of specific zoning regulations for the NC-2 District to meet the needs of the community; and

WHEREAS, the proposed zoning regulations are in keeping with the purposes and intent of the regulations of the Neighborhood Commercial District; and

WHEREAS, the proposed zoning regulations are intended to have not only have a positive impact on the East Atlanta Village Neighborhood, but on all of the citizens in southeast Atlanta.

WHEREAS, the proposed legislation would implement some of the recommendations of the South Moreland Avenue LCI Study, adopted by the Atlanta City Council in 2008;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA
HEREBY ORDAINS:**

Section 1: The 1982 Zoning Ordinance of the City of Atlanta is hereby amended by inserting the following language in Chapter 32B. NC-2 East Atlanta Village Neighborhood Commercial District, which shall read as follows:

Section 16-32B.001. - Scope of provisions.

The regulations set forth in this Chapter are the specific regulations for the NC-2 East Atlanta Village Neighborhood Commercial District. The following NC-2 District regulations shall apply in addition to those of the general Neighborhood Commercial (NC) District regulations Where these NC-2 District regulations conflict with the general NC regulations, these NC-2 regulations shall control.

Section 16-32B.002. - Specific Regulations.

The following regulations are specific to the NC-2 East Atlanta Village Neighborhood Commercial District:

1. NPU notification. In addition to the required SAP submittal, the applicant shall also provide to the Director of the Office of Planning a United States Postal Service proof of a certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the Office of Planning prior to any SAP approval.
2. Permitted Principal Uses: In further limitation of those permitted principal uses and structures set forth in Sec. 16-32.005:
 3.
 - a. The number of automobile service stations within the district shall not exceed two (2).
 - b. The number of tattoo and body piercing establishments shall not exceed three (3).
 - c. The following uses shall only be permitted if the parcel on which they are located is separated by a minimum distance of 500 linear feet, measured from property line to property line, from any same use: barber shops, beauty supply, beauty school, hair salons, and manicure and nail salons. This shall not be construed to mean that a mixture of the above said uses as part of a single parcel or business establishment shall be prohibited. Said uses or combination of uses shall not exceed 4,000 square feet of floor area.
 - d. Parking structures and surface parking lots to serve primary uses within the district.
3. Prohibited Uses: Pawn shops are prohibited.
4. Special Administrative Permits: In further limitation of outdoor display or sales areas permitted by special administrative permit set forth in Sec. 16-32.007(2)(a), the following shall apply:
 - a. Outdoor display or sales areas shall not be permitted along Moreland Avenue or any parcel that shares a side yard with Moreland Avenue.
 - b. Outdoor display or sales areas shall be limited to a maximum of two (2) days a week per parcel between the hours of 7am to 9pm.
 - c. Outdoor display or sales areas shall display copies of the Business License and the approved Special Administrative Permit at all times during hours of operation.
 - d. Tents 10 feet by 10 feet in size shall be required and all goods shall be stored within the tents.
 - e. Amplified music shall not be permitted and lighting shall not extend beyond the perimeter of the tent.
 - f. All waste shall be disposed of using privately owned waste receptacles located on private property and vendors shall maintain areas free of trash within 15 feet of a tent.
 - g. Notwithstanding Sections 16-32.007(2)(a) and 16-32.007(1)(h), - Special Administrative Permits granted for outdoor display or sales areas shall have a term of one year.
5. Transitional yards. In addition to the general NC district requirements of Section 16-32.009, such yards shall be planted with evergreen trees spaced a maximum distance of 20 feet on center. Said trees shall be a minimum of two and one-half inches in caliper as measured 36 inches above ground, shall be a minimum of 12 feet in height, and shall have a 25 feet minimum mature height.

Notwithstanding the foregoing, all plantings, planting replacement and planting removal shall be approved by the city arborist.

6. Maximum building heights.
 - a. Properties along the west side of Moreland Avenue: Buildings shall have a maximum height of 80 feet and a total of six (6) stories.
 - b. Properties with frontage along the east side of Moreland Avenue: Buildings shall have a maximum height of 104 feet and a total of eight (8) stories.
 - c. All other areas: Buildings within 150 feet of an R-1 through R-5 and PD-H district boundary shall have a maximum height of 42 feet and a total of three (3) stories. Structures that are between 150 feet and 300 feet from an R-1 through R-5 and PD-H district boundary shall have a maximum of height of 66 feet and a total of five (5) stories.
 - d. Mezzanines and lofts shall be considered a story.
 - e. Building heights shall comply with the transitional height plane requirements of Section 16-32.009.
7. Active uses shall be required at the sidewalk-level of all buildings and structures, including parking decks.
 - a. All buildings shall have a defined sidewalk-level for purposes of the active-use requirement. Active uses shall be required within buildings and parking structures at sidewalk-level for the entire length of said building facade except at ingress and egress points into parking structures or loading areas. When two or more floors meeting the definition of sidewalk-level exist within the same structure, this requirement shall only apply to the frontage of the sidewalk-level adjacent to the required sidewalk or provided supplemental zone.
 - b. Sidewalk-level: any building floor within five (5) vertical feet of the adjacent required sidewalk or provided supplemental zone.
 - c. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and shall not include parking, non-residential storage areas, driveways, or queuing lanes parallel to the adjacent street.
 - d. Minimum active use depths shall be provided as follows:
 - i. Buildings with residential uses at the sidewalk-level with no residential units located above or below a unit: a minimum depth of 10 feet as measured from the street-facing building facade.
 - ii. All other uses: a minimum depth of 20 feet as measured from the street-facing building facade.
8. Rooftop dining: Outdoor rooftop dining shall not be permitted within 50 feet of any R-1 through R-5 district.
9. Outdoor dining. Sidewalk-level outdoor dining may locate either within supplemental zones or by encroaching into the sidewalk clear zone. When outdoor dining encroaches into the sidewalk clear zone, the following criteria shall be met:
 - a. Shall have a minimum of six (6) feet wide of unobstructed sidewalk clear zone area;
 - b. No permanent structure or ornamentation shall be located within the area where encroachment is permitted and no element shall be attached to the sidewalk in any way;
 - c. At such time as the outdoor dining use is discontinued, sidewalks shall comply with all requirements of this chapter; and
 - d. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of thirty-six (36) inches including any plant material.

10. Dumpsters, bulk storage containers and other loading areas: In addition to the general NC district requirements of Section 16-32.018, the following additional restrictions shall apply:
 - a. Shall be paved with impervious materials.
 - b. Shall be enclosed with a self-closing opaque gate and opaque walls or fencing. Said gate, walls and fencing shall be a minimum of twelve (12) inches higher than the dumpster receptacle. The maximum combined height of a dumpster and screening walls or fencing shall be seven (7) feet.
11. Building mechanical and accessory features: In addition to the general NC district requirements of Section 16-32.018, the following additional restrictions shall apply:
 - a. When not located on rooftops and visible from the right-of-way shall be screened with landscaping consisting of a continuous hedge of evergreen shrubs, which shall be a minimum height of six (6) feet at time of planting and shall be maintained by the property owner.
 - b. When located on rooftops shall be placed at least five (5) feet from the edges of the rooftop.
12. Fencing: In addition to the general NC district requirements of Section 16-32.015, any chain link fencing where permitted, shall be black or dark green vinyl coated. Barbed wire and razor wire shall not be permitted.
13. Lighting: In addition to the general NC district requirements of Section 16-32.021, all exterior lighting shall reduce light spillage onto adjacent properties by providing cutoff luminaries that have a maximum 90 degree illumination.
14. Curb cuts: In addition to the general NC district requirements of Section 16-32.020, two curb cuts serving two one-way driveways shall only be counted as one curb cut.
15. Off-Street Parking Requirements: In addition to the general NC district requirements of Section 16-32.023, the following parking requirements shall supplant the requirements for the uses specified below in the Table. The Director of the Office of Planning may approve through a Special Administrative Permit a reduction of parking through an off-site shared parking arrangement between any parcels located within the NC-2 district in accordance with the requirements of Section 16-32.023(3).

NC-2 East Atlanta Village Neighborhood Commercial District: Parking Table	
Permitted Use	Minimum Parking Requirement
<ul style="list-style-type: none"> Banks and similar institutions Clothing and Tailor Shops Office Retail Establishments (including catering, delicatessen and bakeries) Sales and Repair Establishments Laundry and dry cleaning pick-up stations and coin operated Laundromats. 	1 space per 300 square feet of floor area
<ul style="list-style-type: none"> Dwellings and Lodgings 	1 space per unit
<ul style="list-style-type: none"> All other uses 	As specified in Section 16-32.023
<ul style="list-style-type: none"> Electric Vehicle Charging Requirements 	None

**AN ORDINANCE
BY COUNCILMEMBER NATALYN ARCHIBONG
AS SUBSTITUTED BY ZONING COMMITTEE**

Z-11-12

A SUBSTITUTE ORDINANCE TO AMEND CHAPTER 32B NC-2 EAST ATLANTA VILLAGE NEIGHBORHOOD COMMERCIAL DISTRICT OF THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA CODE OF ORDINANCES FOR THE PURPOSE OF ADDING SPECIFIC REGULATIONS ; AND FOR OTHER PURPOSES.

WHEREAS, the East Atlanta Village Neighborhood is interested in creating a vibrant commercial district that is supportive of a quality of life that is conducive to attracting and keeping thriving entrepreneurs in the neighborhood; and

WHEREAS, the East Atlanta Village Neighborhood is currently the only commercial district in the NC category that does not have unique or specific regulations for its neighborhoods; and

WHEREAS, the East Atlanta Village Neighborhood would like to remedy this deficiency by inserting language that the community feels will allow them to achieve the linkage with the nearby residential neighborhoods; and

WHEREAS, the East Atlanta Village Neighborhood is in the process of developing a comprehensive list of specific regulations that are unique to the community and will further embrace the intent of the Neighborhood Commercial District concept; and

WHEREAS, the inclusion of the proposed language will not only have a positive impact on the East Atlanta Village Neighborhood but also on all of the citizens in southeast Atlanta.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1. That the 1982 Zoning Ordinance of the City of Atlanta is hereby amended BY inserting the following language in Chapter 32B. NC-2 East Atlanta Village Neighborhood Commercial District, which shall read as follows:

Chapter 32B. NC-2 East Atlanta Village Neighborhood Commercial District

Section 16-32B.001. Scope of Provisions.

The regulations set forth in this chapter are the specific regulations for the NC-2 East Atlanta Village Neighborhood Commercial District. These regulations set forth herein shall apply in this district in addition to the general Neighborhood Commercial (NC) regulations or shall apply in lieu of the general NC regulations where these regulations differ.

Section 16-32B.002. Specific Regulations.

The following regulations are specific to the NC-2 East Atlanta Village Neighborhood Commercial District:

1. NPU notification. In addition to the required Special Administrative Permit (SAP) submittal, the applicant shall also provide to the Director of the Office of Planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the Office of Planning prior to any SAP approval.
2. Accessory use. Outdoor private property vending is allowed. Such vending shall be governed by the requirements of the private property vending ordinance as found in Code Sections 30-1461 through 30-1480 of the Code of Ordinances of the City of Atlanta with the exception(s) of:
 - a. Section 30-1464(a) of the Code of Ordinances; and
 - b. No vending of food shall be allowed; with the exception of farmers' markets; and
 - c. All vendors' tables and tents shall face the street in the private property space between an existing building and the public right-of-way but shall provide a minimum unobstructed sidewalk clearance width of six (6) feet.
3. Special Administrative Permits. The Special Administrative Permit for outdoor amusement enterprises, exhibits, entertainment, music venues, meetings, displays or sales areas, or outdoor areas for religious ceremonies shall be allowed for a period of one (1) year. A Special Use Permit (SUP) shall be required for said uses for a period greater than one (1) year.

AN ORDINANCE BY

Natalyn Mosby Archibong
COUNCILMEMBER NATALYN MOSBY ARCHIBONG

11-0-0533

2-11-12

**AN ORDINANCE TO AMEND CHAPTER 32B
NC-2 EAST ATLANTA VILLAGE
NEIGHBORHOOD COMMERCIAL
DISTRICT OF THE 1982 ZONING
ORDINANCE OF THE CITY OF ATLANTA
CODE OF ORDINANCES FOR THE
PURPOSE OF ADDING SPECIFIC
REGULATIONS; AND FOR OTHER
PURPOSES.**

WHEREAS, the East Atlanta Village Neighborhood is interested in creating a vibrant commercial district that is supportive of a quality of life that is conducive to attracting and keeping thriving entrepreneurs in the neighborhood; and

WHEREAS, the East Atlanta Village Neighborhood is currently the only commercial district in the NC category that does have unique or specific regulations for its neighborhoods; and

WHEREAS, the East Atlanta Village Neighborhood would like to remedy this deficiency by inserting language that the community feels will allow them to achieve the linkage with the nearby residential neighborhoods; and

WHEREAS, the East Atlanta Village Neighborhood is in the process of developing a comprehensive list of specific regulations that are unique to the community and will further embrace the intent of the Neighborhood Commercial District concept; and

WHEREAS, the inclusion of the proposed language will not only have a positive impact on the East Atlanta Village Neighborhood but also on all of the citizens in southeast Atlanta.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Sec. 16-32B.001. – Scope of provisions

The regulations set forth in this chapter, or set forth elsewhere in this part, when referred to in this chapter, are the regulations for the NC-2 East Atlanta Village Commercial District. The following NC-2 District regulations shall apply in addition to those of the general NC District regulations; except where said NC-2 District regulations conflict with the general NC regulations, said NC-2 regulations shall apply.

Sec. 16-32B.002. – Specific regulations

The regulations set forth in this chapter, or set forth elsewhere in this part, when referred to in this chapter, are the regulations for the NC-2 East Atlanta Village Commercial District. The following NC-2 District regulations shall apply in addition to those of the general NC District regulations; except where said NC-2 District regulations conflict with the general NC regulations, said NC-2 regulations shall apply.

Sec. 16-32B.002. – Specific regulations

The following regulations are specific to NC-2 East Atlanta Village Commercial District.

1. *NPU notification.* In addition to the required Special Administrative Permit (SAP) submittal, the applicant shall also provide to the director of the bureau of planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the bureau of planning prior to any SAP approval.
2. *Accessory use.* Outdoor private property vending is allowed. Such vending shall be governed by the requirements of the private property vending ordinance as found in Section **30-1461-1480** of the Code of Ordinances of the City of Atlanta with the exception (s) of:
 - (1) 1464 (a) of the Code of Ordinances
 - (2) No vending of food will be allowed;
 - (3) All vendors tables/tents shall face the street in the private property space between an existing building and the public right-of- way
 - (4) Each permit will be for a period of one (1)year

SECTION 2: That all ordinances and parts of ordinances in conflict with this ordinance shall be repealed.

COMMITTEE AMENDMENT FORM

DATE: 07/13/11

COMMITTEE ZONING

PAGE NUM(S)

ORDINANCE I. D. #11-O-0692

SECTION (S)

RESOLUTION I. D. #11-R-

PARA.

AMENDS THE LEGISLATION BY ADDING ONE (1) CONDITION.

THE LEGISLATION IS FURTHER AMENDED BY ADDING THE
DESCRIPTION OF THE SENDING PROPERTY AND THE RECIPIENT
PROPERTY IN SECTION 1.

City Council
Atlanta, Georgia

11-O-0692

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

U-11-16

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.023 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the 544 North Angier Avenue, N. E. (Donor Parcel), to wit:

OWNERS: ATLANTA BELTLINE, INC. (RECIPIENT)
544 NORTH ANGIER AVENUE, N.E. (DONOR PARCEL)

APPLICANT: ATLANTA BELTLINE, INC.

Sending Property (544 North Angier Avenue):

- Net lot area: 39,845 s.f. (0.915 acres)
- Maximum non-residential FAR allowed: 4.0 times net lot area = 159,380 s.f.
- Maximum residential FAR allowed: 3.2 times net lot area = 127,504 s.f.
- Total development rights to be transferred:
 - Non-residential square footage = 159,380 s.f.
 - Residential square footage = 127,504 s.f.
- Total development rights to be retained on sending parcel = zero s.f.

Recipient (Atlanta BeltLine, Inc):

- Total development rights to be received:
 - Non-residential square footage = 159,380 s.f.
 - Residential square footage = 127,504 s.f.

ALL THAT TRACT or parcel of land lying and being in the following Land Lots and District of Fulton County as described below and by the attached legal description and/or survey:

Donor Parcel is located in Land Lot 18, District 14.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Conditions for U-11-16 for 544 North Angier Ave., N.E. (Donor Parcel)

1. The submission of all agreements, assignments, and affidavits to the Office of Planning for record keeping of said transfer of development rights.

City Council
Atlanta, Georgia

11-0-0692
U-11-16

AN ORDINANCE
BY: ZONING COMMITTEE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.027 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the 544 North Angier Avenue, N. E. (Donor Parcel), to wit:

OWNERS: 544 NORTH ANGIER AVENUE, N.E. (DONOR PARCEL)

APPLICANT: ATLANTA BELTLINE, INC.

ALL THAT TRACT or parcel of land lying and being in the following Land Lots and District of Fulton County as described below and by the attached legal description and/or survey:

Donor Parcel is located in Land Lot 18, District 14.

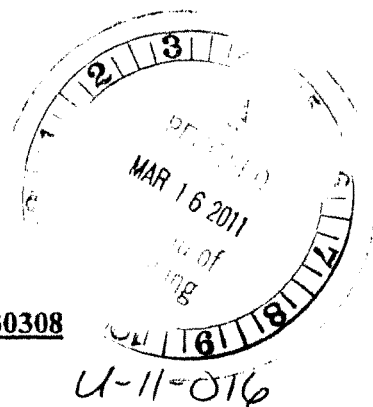
SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

EXHIBIT "A"

LEGAL DESCRIPTION

Land located at 544 N. Angier Avenue, Atlanta, Fulton County, Georgia 30308
Atlanta BeltLine, Inc.
Parcel Tax ID# 14-0018-0001-024 and 14-0018-0001-025



All that Tract or Parcel of lying and being in Land Lot 18 of the 14th District of Fulton County, Georgia more particularly described as follows:

Beginning at the intersection of the southwesterly right of way of North Angier Avenue with the northwesterly right of way of Dallas Street, and running thence South 73 Degrees 43 Minutes 38 Seconds West along the northwesterly right of way of Dallas Street 185.52 feet to a point; running thence North 19 Degrees 34 Minutes 42 Seconds West 252.87 feet to a point on the southeasterly right of way of Morgan Street,- running thence North 81 Degrees 34 Minutes 20 Seconds East 147.49 feet to the intersection of the southeasterly right of way of Morgan Street with the southwesterly right of way of North Angier Avenue,- running thence South 29 Degrees 21 Minutes 19 Seconds East along the southwesterly right of way of North Angier Avenue 238.51 feet to the Point of Beginning.

As shown on ALTA/ACSM Land Title Survey for ADP North Angier, LLC prepared by Hartrampf, certified to by Larry P. Atkinson, dated November 17, 2005 and last revised on September 6, 2007.

COMMITTEE AMENDMENT FORM

DATE: 07/13/11

COMMITTEE ZONING

PAGE NUM(S)

ORDINANCE I. D. #11-O-0693

SECTION (S)

RESOLUTION I. D. #11-R-

PARA.

AMENDS THE LEGISLATION BY ADDING ONE (1) CONDITION.

THE LEGISLATION IS FURTHER AMENDED BY ADDING THE
DESCRIPTION OF THE SENDING PROPERTY AND THE RECIPIENT
PROPERTY IN SECTION 1.

D-4

City Council
Atlanta, Georgia

11-O-0693

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

U-11-17

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.023 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the 641 (aka 665) North Avenue, N. E. (Perlman Tract) (Donor Parcel) to wit:

OWNERS: ATLANTA BELTLINE

APPLICANT: ATLANTA BELTLINE, INC.

Sending Property (665 North Avenue):

- Net lot area: 16,072 s.f. (0.369 acres)
- Maximum non-residential FAR allowed: 4.0 times net lot area = 64,288 s.f.
- Maximum residential FAR allowed: 3.2 times net lot area = 51,430 s.f.
- Total development rights to be transferred:
 - Non-residential square footage = 64,288 s.f.
 - Residential square footage = 51,430 s.f.
- Total development rights to be retained on sending parcel = zero s.f.

Recipient (Atlanta BeltLine, Inc):

- Total development rights to be received:
 - Non-residential square footage = 64,288 s.f.
 - Residential square footage = 51,430 s.f.

ALL THAT TRACT or parcel of land lying and being in the following Land Lots and District of Fulton County as described below and by the attached legal description and/or survey.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Conditions for U-11-17 for 641 (aka 665) North Ave., N.E. (Perlman Tract) (Donor Parcel)

1. The submission of all agreements, assignments, and affidavits to the Office of Planning for record keeping of said transfer of development rights.

City Council
Atlanta, Georgia

11- O -0693

U-11-17

AN ORDINANCE
BY: ZONING COMMITTEE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.027 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the 641 (aka 665) North Avenue, N. E. (Perlman Tract) (Donor Parcel) to wit:

OWNERS: ATLANTA BELTLINE

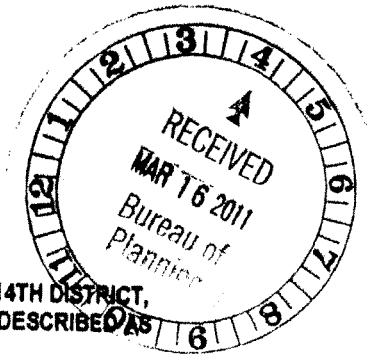
APPLICANT: ATLANTA BELTLINE, INC.

ALL THAT TRACT or parcel of land lying and being in the following Land Lots and District of Fulton County as described below and by the attached legal description and/or survey.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

DESCRIPTION OF PROPERTY



ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 18 OF THE 14TH DISTRICT, CITY OF ATLANTA, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FORMED BY THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY OF NORTH AVENUE (80' R/W) AND THE SOUTHWESTERLY RIGHT-OF-WAY OF ANGIER STREET (50' R/W);

THENCE RUN ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF ANGIER STREET SOUTH 29 DEGREES 27 MINUTES 29 SECONDS EAST FOR A DISTANCE OF 136.46 FEET TO A POINT;

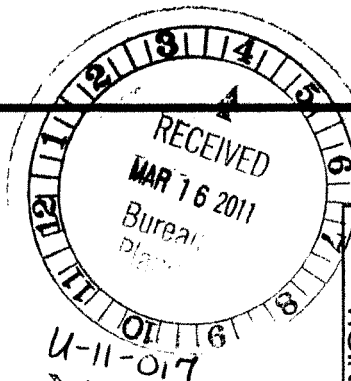
THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 60 DEGREES 36 MINUTES 52 SECONDS WEST FOR A DISTANCE OF 105.41 FEET TO A POINT;

THENCE RUN NORTH 24 DEGREES 52 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 188.61 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF NORTH AVENUE (80' R/W);

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY SOUTH 89 DEGREES 40 MINUTES 36 SECONDS EAST FOR A DISTANCE OF 104.06 FEET TO THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 16072.55 SQUARE FEET OR 0.3690 ACRES AND IS MORE PARTICULARLY SHOWN AS PARCEL B ON ALTA/ACSM LAND TITLE SURVEY OF CITY HALL EAST FOR PONCE PARK SOUTH, LLC, DATED FEBRUARY 21, 2006, LAST REVISED MARCH 8, 2006, PREPARED BY HDR ENGINEERING, INC., BEARING THE SEAL OF PHILLIPS S. CURRY, G.R.L.S. NO. 2242.

U-11-017



TITLE NOTES

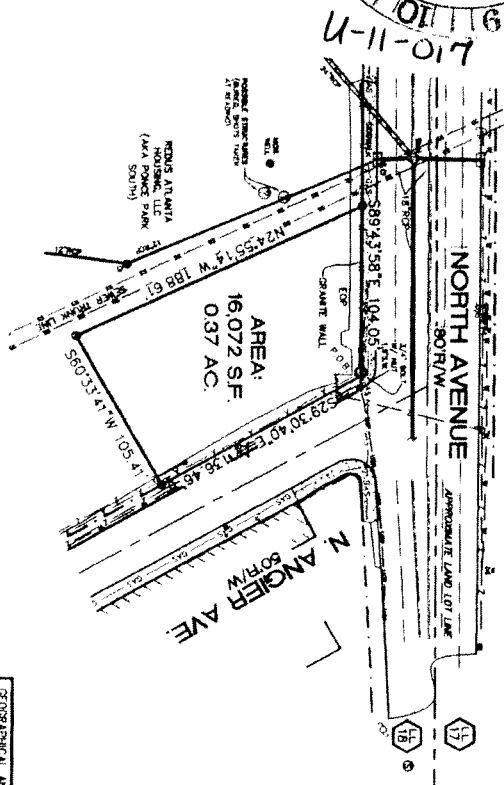
PERMANENT TO CHAULIO TULI INSURANCE COMPANY COMMITMENT FOR THE INSURANCE NO. 10-39461, EFFECTIVE 09/15/70. THE FOLLOWING ARE CONSIDERED EXEMPTIONS TO SAY TULI UNLESS DISPOSED OF TO THE SATISFACTION OF THE COMPANY:

1. RIGHT OF WAY EASEMENT FOR ROAD SEARS REEBECK AND CO. TO GENERAL POWER COMPANY DATED APRIL 16, 1964, RECORDED AT DEED BOOK 4387, COMMENCING AT PAGE 405.

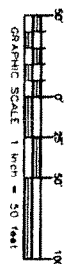
2. AIRCRAFT RECORDS.

3. AIRCRAFT APPLIES TO CAPTION PROPERTY, APPLIES TO POWER LINES ALONG NORTH AIRPORT AVENUE.

LEGAL DESCRIPTION

[illegible]

REFERENCES:

[illegible]

SURVEYORS CERTIFICATION

GEODATAPHIC AND VERTICAL INFORMATION WERE OBTAINED USING THE LEICA GEOSYSTEMS GEORGIA REFERENCE NETWORK (GRN)-AN INTERNET BASED RIN NETWORK THAT REPORTS NAD-83 DATUM, GEORGIA WEST ZONE (1002), BASED ON THE 2003 GEOID MODEL.

[illegible]

GENERAL NOTES

[illegible]

UNDERGROUND UTILITIES NOTE

[illegible]

ALTA/ACSM SURVEY FOR:

ATLANTA BELTLINE, INC.
CHICAGO TITLE
INSURANCE COMPANY
LAND LOT 18 OF
THE 14TH DISTRICT,
CITY OF ATLANTA,
FULTON COUNTY, GEORGIA

PLAT INFORMATION:

SCALE 1" = 50'	DATE: 14 DEC 10
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THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 1 FOOT IN 32,000+ FEET AND AN ANGULAR ERROR OF 04 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE TO 1 FOOT IN 100,000+ FEET. AN ELECTRONIC TOTAL STATION WAS USED TO GATHER THE INFORMATION USED IN THE PREPARATION OF THIS PLAT.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, ENTITY OR ENTITIES, HEREON. THIS PLAT DOES NOT EXTEND TO UNNAMED PERSONS, PERSONS OR ENTITY WITHOUT EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY.

[illegible]

JOB No.: 481-09-081
SHEET NO. 1 OF



SOUTHEASTERN ENGINEERING, INC.
2470 Sandy Plains Road Marietta, Georgia 30066

MEMBER OF THE SURVEYING & MAPPING SOCIETY OF
GEORGIA (SAMSGOG)
ALL MATTERS OF TITLE ARE EXCEPTED © 2040
Deuteronomy 19:14 Do not move your neighbor's
boundary stone set up by your predecessors...

SURVEYED: GAK	DRAFTED: DMC	CHECKED: GAK
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**AN ORDINANCE
BY: ZONING COMMITTEE**

AN ORDINANCE TO AMEND SECTION 6-4028 AND TO CREATE SECTION 6-4028.1 OF THE LAND DEVELOPMENT CODE, PART III OF THE CODE OF ORDINANCES, SO AS TO CHANGE THE DEFERRAL FEE FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS BEFORE THE BOARD OF ZONING ADJUSTMENT TO A FLAT FEE FOR EACH INSTANCE THAT THE BOARD GRANTS AN APPLICANT'S REQUEST FOR DEFERRAL TO A SUBSEQUENT PUBLIC HEARING ON THE APPLICATION; AND FOR OTHER PURPOSES.

WHEREAS, currently there is an application fee, based on the zoning district, required to be paid by an applicant seeking a variance or special exception from the City of Atlanta Board of Zoning Adjustment ("Board"); and

WHEREAS, the purpose of the fee is to cover the administrative costs associated with such application including the costs incurred to notice the public hearing, which notice includes mailings to property owners within 300 feet of the subject property, posting of sign(s) at the subject property, and publication in a newspaper of general circulation ("notices"); and

WHEREAS, in the event the Board grants one or more deferrals from the advertised public hearing to a future public hearing, the City incurs additional costs beyond that which may be covered in the application fee in causing any subsequent notices to be given of the public hearing date to which the Board has deferred the application ("re-notice"); and

WHEREAS, currently and pursuant to 09-O-0802 there is deferral fee imposed on a variance of special exception applicant to cover the actual costs incurred by the City in re-noticing the public hearing in accordance with the requirements of the Atlanta Zoning Ordinance; and

WHEREAS, the office of planning has worked with the Mayor's office to streamline the variance and special exception process which efforts have identified changing the deferral fee to a flat fee based on zoning district, similar to the application fee, so as to create more predictability for applicants and allow staff to the Board to more quickly process deferred cases; and

WHEREAS, the variance and special exception application and deferral fees should be set forth in a stand-alone section of the land development code as opposed to section 6-4028 dealing more specifically with appeals to the Board.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA ORDAINS AS FOLLOWS:

Section 1. That Section 6-4028 of the Land Development Code and which reads as follows:

6-4028. Appeals to the Board

Appeals to the board may be taken by any person aggrieved or by an officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board, a notice of appeal specifying the grounds thereof. The notice filed with the board shall be accompanied by a filing fee which shall be credited to the general revenue fund of the city. The amount of such fee shall be determined from the following schedule:

- (1) For appeals which allege that a decision of an administrative officer is in error, each appeal, without regard to the zoning district in which the subject property lies, shall be \$250.00.
- (2) Variance applications. Variance application fees are based on the zoning district in which the subject property is located.

District	Fee
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-4B, R-5, LD (landmark district), HD (historic district)	\$100.00
MR, SECTORS, 1-8 RG, SECTORS, 1-6	500.00
R-LC, O-I, C-1, C-2, C-3, C-4, C-5, I-1, I-2 MRC-1, MRC-2, MRC-3, LW, NC, SPI	625.00

- (3) Special exception applications. Special exceptions application fees are based on the zoning district in which the subject property is located.

District	Fee
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-4B, R-5, LD (landmark district), HD (historic district)	\$100.00
MR, SECTORS, 1-8 RG, SECTORS, 1-6	500.00
R-LC, O-I, C-1, I-1 C-2, C-3, C-4, C-5, I-1, I-2 MRC-1, MRC-2, MRC-3, LW, NC, SPI	625.00

- (4) Any applicant or appellant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and

for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral the actual costs to be incurred by the bureau of planning in re-mailing and re-advertising the new hearing date(s) in accordance with the zoning ordinance.

- (5) Any person appealing from the decision of the board to the Superior Court shall pay the actual costs incurred by the city in causing the board's hearing(s) on the appeal to be transcribed as contemplated in the Zoning Ordinance. The board, through its secretary, shall communicate to the appellant the actual costs and the requirement and manner in which to pay same. The board shall not be required to file the transcript of the hearing(s) before it until such time as the appellant pays such costs.

The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Is amended to read as follows:

6-4028. Appeals to the Board

Appeals to the board may be taken by any person aggrieved or by an officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board, a notice of appeal specifying the grounds thereof. The notice filed with the board shall be accompanied by a filing fee which shall be credited to the general revenue fund of the city. The amount of such fee shall be determined from the following schedule:

- (1) For appeals which allege that a decision of an administrative officer is in error, each appeal, without regard to the zoning district in which the subject property lies, shall be \$250.00.
- (2) Any appellant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral to pay the actual costs to be incurred by the bureau of planning in re-mailing and re-

advertising the new hearing date(s) in accordance with the zoning ordinance. The board, in its discretion, is authorized not to hear the appeal on the date to which the appeal was deferred in the event the deferral fee is not paid prior to sounding of the case.

- (3) Any person appealing from the decision of the board to the Superior Court shall pay the actual costs incurred by the city in causing the board's hearing(s) on the appeal to be transcribed as contemplated in the Zoning Ordinance. The board, through its secretary, shall communicate to the appellant the actual costs and the requirement and manner in which to pay same. The board shall not be required to file the transcript of the hearing(s) before it until such time as the appellant pays such costs. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Section 2: That a new Section 6-4028.1 of the Land Development Code and entitled “variance and special exception fees” is created and which shall read as follows:

6-4028.1 Variance and Special Exception Fees

The secretary to the board shall charge as follows:

- (1) *Variances.* Variance application and deferral fees are based on the zoning district in which the subject property is located according to the following schedule:

District	Application Fee	Deferral Fee
R, LD, HD	\$100	\$65
RG, MR	\$500	\$170
R-LC, O-I, C, I, MR-C, LW, NC, SPI	\$625	\$ 200

- (2) Special exceptions. Special exceptions application and deferral fees are based on the zoning district in which the subject property is located according to the following schedule:

District	Application Fee	Deferral Fee
R, LD, HD	\$100	\$65
RG, MR	\$500	\$170
R-LC, O-I, C, I, MR-C, LW, NC, SPI	\$625	\$ 200

Any variance or special exception applicant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral to pay the deferral fee. The board, in its discretion, is authorized not to hear the appeal on the date to which the appeal was deferred in the event the deferral fee is not paid prior to sounding of the case.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Zoning

Caption:

AN ORDINANCE

BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND SECTION 6-4028 AND TO CREATE SECTION 6-4028.1 OF THE LAND DEVELOPMENT CODE, PART III OF THE CODE OF ORDINANCES, SO AS TO CHANGE THE DEFERRAL FEE FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS BEFORE THE BOARD OF ZONING ADJUSTMENT TO A FLAT FEE FOR EACH INSTANCE THAT THE BOARD GRANTS AN APPLICANT'S REQUEST FOR DEFERRAL TO A SUBSEQUENT PUBLIC HEARING ON THE APPLICATION; AND FOR OTHER PURPOSES.

Council Meeting Date: June 20, 2011

Requesting Dept.: Planning and Community Development

FAC Confirmed by: N/A

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose of this legislation is to amend the current variance deferral fee by creating a flat fee based on zoning districts. A flat fee creates more predictability for applicants and allows staff to more quickly process deferred variance cases.

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

This Office of Planning has worked with the Mayor's office through Atlanta Stat to streamline the variance process and deferral fee structure. The flat fee, as opposed to a fee for each specific application, is a result of this work.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):** NA
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:**

4. Fund Account Center (Ex. Name and number):

Fund: _____ Account: _____ Center: _____

5. Source of Funds: *Example: Local Assistance Grant*

6. Fiscal Impact: A tiered reduction in property taxes receipts from the property but only if property actually rehabbed.

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery: none

Examples:

- a. Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.***
- b. Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.***

This Legislative Request Form Was Prepared By: Brandy Crawford

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE BYRD

Dept.'s Legislative Liaison: Garnett Brown

Contact Number: Ext. 6724

Originating Department: Planning and Community Development

Committee(s) of Purview: Zoning

Chief of Staff Deadline: May 13, 2011

Anticipated Committee Meeting Date(s): June 14, 2011 (2nd read)

Anticipated Full Council Date: June 20, 2011 (passage)

Legislative Counsel's Signature: _____

Commissioner Signature: _____

Chief Procurement Officer Signature: N/A_____

CAPTION

AN ORDINANCE

BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND SECTION 6-4028 AND TO CREATE SECTION 6-4028.1 OF THE LAND DEVELOPMENT CODE, PART III OF THE CODE OF ORDINANCES, SO AS TO CHANGE THE DEFERRAL FEE FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS BEFORE THE BOARD OF ZONING ADJUSTMENT TO A FLAT FEE FOR EACH INSTANCE THAT THE BOARD GRANTS AN APPLICANT'S REQUEST FOR DEFERRAL TO A SUBSEQUENT PUBLIC HEARING ON THE APPLICATION; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: _____ Reviewed by: _____
(date) (date)

Submitted to Council: _____
(date)

RCS# 1084
6/06/11
4:00 PM

Atlanta City Council

REGULAR SESSION

11-O-0824 AMEND SEC.6-4028 AND CREATE 6-4028.1 OF
 LAND DEVELOPMENT CODE
 REFER ZONE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	NV Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	NV Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

11-O-0824

COMMITTEE AMENDMENT FORM

DATE: 07/13/11

COMMITTEE ZONING

PAGE NUM(S)

ORDINANCE I. D. #11-O-0857

SECTION (S)

RESOLUTION I. D. #11-R-

PARA.

AMENDS THE LEGISLATION BY ADDING ONE (1) CONDITION.

THE LEGISLATION IS FURTHER AMENDED BY ADDING THE
DESCRIPTION OF THE SENDING PROPERTY AND THE RECIPIENT
PROPERTY IN SECTION 1.

D-6'

City Council
Atlanta, Georgia

11-O-0857

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

U-11-18

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.023 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the **690 Morgan Street ,N. E. (aka 0 North Avenue tax parcel identification 14-0018-0001-026-5)**, (Donor Parcel), to wit:

OWNERS: ATLANTA BELTLINE

APPLICANT: ATLANTA BELTLINE, INC.

Sending Property (690 Morgan Street):

- Net lot area: 25,719 s.f. (0.59 acres)
- Max non-residential FAR allowed: 4.0 times net lot area = 102,876 s.f.
- Maximum residential FAR allowed: 3.2 times net lot area = 82,300 s.f.
- Total development rights to be transferred:
 - Non-residential square footage = 102,876 s.f.
 - Residential square footage = 82,300 s.f.
- Total development rights to be retained on sending parcel = zero s.f.

Recipient (Atlanta BeltLine, Inc):

- Total development rights to be received:
 - Non-residential square footage = 102,876 s.f.
 - Residential square footage = 82,300 s.f.

ALL THAT TRACT or parcel of land lying and being in the following Land Lot 18 and 14th District of Fulton County as described below and by the attached legal description and/or survey.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan

and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

**Conditions for U-11-18 for 690 Morgan Street, N.E. (aka 0 North Avenue tax parcel
identification 14-0018-0001-026-5) (Donor Parcel)**

1. The submission of all agreements, assignments, and affidavits to the Office of Planning for record keeping of said transfer of development rights.

City Council
Atlanta, Georgia

11-0-0857

AN ORDINANCE
BY: ZONING COMMITTEE

U-11-18

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Under the provisions of Section 16.28.023 (2)(c)(3) and Section 16-28.027 (3)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit is granted for a Transfer of Excess Development Rights. Said use is granted to Atlanta Beltline, Inc. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the **690 Morgan Street, N. E. (aka 0 North Avenue tax parcel identification 14-0018-0001-026-5)**, (Donor Parcel), to wit:

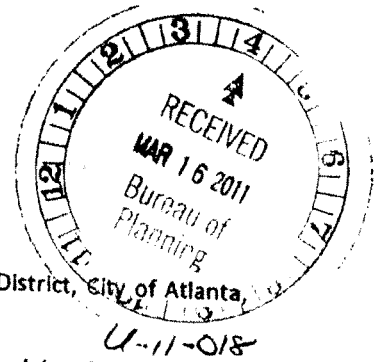
OWNERS: ATLANTA BELTLINE

APPLICANT: ATLANTA BELTLINE, INC.

ALL THAT TRACT or parcel of land lying and being in the following Land Lot 18 and 14th District of Fulton County as described below and by the attached legal description and/or survey.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.



LEGAL DESCRIPTION – ABI TRACT

ALL THAT TRACT or parcel of land lying and being in Land Lot 18 of the 14th District, City of Atlanta, Georgia and being more particularly described as follows:

BEGINNING at a point at the Northwesternly Intersection of the Southwesterly right-of-way of North Angler Avenue with the Northerly right-of-way of Morgan Street; THENCE proceeding SOUTH 81 DEGREES 24 MINUTES 07 SECONDS WEST along the northerly right-of-way of Morgan Street a distance of 140.43 feet to a point; THENCE departing said right-of-way and proceeding NORTH 24 DEGREES 55 MINUTES 14 SECONDS WEST a distance of 182.25 feet to a point; THENCE proceeding NORTH 61 DEGREES 07 MINUTES 24 SECONDS EAST a distance of 116.60 feet to a point on the aforesaid right-of-way North Angler Avenue; THENCE proceeding SOUTH 29 DEGREES 30 MINUTES 40 SECONDS EAST along said right-of-way a distance of 230.51 feet to a point and POINT OF BEGINNING.

Said parcel contains 25,719 square feet or 0.59 acre.